

House File 912 - Enrolled

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HOUSE FILE 912

AN ACT

RELATING TO PROVIDING SALES, USE, AND PROPERTY TAX EXEMPTIONS
AND REFUNDS FOR CERTAIN COMPUTER-RELATED SERVICE
BUSINESSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 423.3, Code 2007, is amended by adding
the following new subsection:

NEW SUBSECTION. 92. a. (1) The sales price from the
sale or rental of computers and equipment that are necessary
for the maintenance and operation of a web search portal and
property whether directly or indirectly connected to the
computers, including but not limited to cooling systems,
cooling towers, and other temperature control infrastructure;
power infrastructure for transformation, distribution, or
management of electricity used for the maintenance and
operation of the web search portal, including but not limited
to exterior dedicated business-owned substations, back-up
power generation systems, battery systems, and related
infrastructure; and racking systems, cabling, and trays, which
are necessary for the maintenance and operation of the web
search portal.

(2) The sales price of back-up power generation fuel, that
is purchased by a web search portal business for use in the
items listed in subparagraph (1).

(3) The sales price of electricity purchased for use in
providing a web search portal.

b. For the purpose of claiming this exemption, all of the
following requirements shall be met:

(1) The business of the purchaser or renter shall be as a
provider of a web search portal.

(2) The web search portal business shall have a physical
location in the state that is used for the operations and
maintenance of the web search portal site on the internet
including but not limited to research and development to
support capabilities to organize information and to provide
internet access, navigation, and search.

(3) The web search portal business shall make a minimum
investment in an Iowa physical location of two hundred million
dollars within the first six years of operation in Iowa
beginning with the date the web search portal business
initiates site preparation activities. The minimum investment
includes the initial investment, including land and subsequent
acquisition of additional adjacent land and subsequent
investment at the Iowa location.

(4) The web search portal business shall purchase, option,
or lease Iowa land not later than December 31, 2008, for any
initial investment. However, the December 31, 2008, date
shall not affect the future purchases of adjacent land and
additional investment in the initial or adjacent land to
qualify as part of the minimum investment for purposes of this
exemption.

c. This exemption applies from the date of the initial
investment in or the initiation of site preparation activities
for the web search portal facility as described in paragraph
"b". For purposes of claiming this exemption, the
requirements may be met by aggregating the various Iowa
investments and other requirements of the web search portal
business's affiliates. This exemption applies to affiliates
of the web search portal business.

d. Failure to meet eighty percent of the minimum
investment amount requirement specified in paragraph "b"
within the first six years of operation from the date the web
search portal business initiates site preparation activities
will result in the web search portal business losing the right
to claim this exemption and the web search portal business
shall pay all sales or use tax that would have been due on the
purchase or rental or use of the items listed in this
exemption, plus any applicable penalty and interest imposed by
statute.

3 4 e. For purposes of this subsection:
3 5 (1) "Affiliate" means an entity that directly or
3 6 indirectly controls, is controlled with or by, or is under
3 7 common control with another entity.
3 8 (2) "Control" means any of the following:
3 9 (a) In the case of a United States corporation, the
3 10 ownership, directly or indirectly, of fifty percent or more of
3 11 the voting power to elect directors.
3 12 (b) In the case of a foreign corporation, if the voting
3 13 power to elect the directors is less than fifty percent, the
3 14 maximum amount allowed by applicable law.
3 15 (c) In the case of an entity other than a corporation,
3 16 fifty percent or more ownership interest in the entity, or the
3 17 power to direct the management of the entity.
3 18 (3) "Web search portal business" means an entity among
3 19 whose primary businesses is to provide a search portal to
3 20 organize information; to access, search, and navigate the
3 21 internet, including research and development to support
3 22 capabilities to organize information; and to provide internet
3 23 access, navigation, and search functionalities.
3 24 Sec. 2. Section 423.4, Code 2007, is amended by adding the
3 25 following new subsection:
3 26 NEW SUBSECTION. 8. a. The owner of an information
3 27 technology facility located in this state on July 1, 2007, and
3 28 having a primary business with a North American industry
3 29 classification system number 518210 or 541519 as verified by
3 30 the department of economic development using nationally
3 31 recognized third-party sources such as Hoovers, Harris
3 32 Directory or others designated by the department of economic
3 33 development, may make an annual application for up to five
3 34 consecutive years to the department for the refund of the
3 35 sales or use tax upon the sales price of all sales of fuel
4 1 used in creating heat, power, and steam for processing or
4 2 generating electrical current, or from the sale of electricity
4 3 consumed by computers, machinery, or other equipment for
4 4 operation of the technology facility.
4 5 b. An information technology facility shall qualify for
4 6 the refund in this subsection if all of the following criteria
4 7 are met:
4 8 (1) The facility's six-digit North American industry
4 9 classification system number 518210 or 541519 indicates that
4 10 the facility is primarily engaged in providing
4 11 computer-related services.
4 12 (2) The capital expenditures for computers, machinery, and
4 13 other equipment used in the operation of the facility equals
4 14 at least one million dollars.
4 15 (3) The facility is certified as meeting the Leadership in
4 16 Energy and Environmental Design (LEED) standards.
4 17 c. The refund may be obtained only in the following manner
4 18 and under the following conditions:
4 19 (1) The applicant shall use forms furnished by the
4 20 department.
4 21 (2) The applicant shall separately list the amounts of
4 22 sales and use tax paid during the reporting period.
4 23 (3) The applicant may request when the refund begins, but
4 24 it must start on the first day of a month and proceed for a
4 25 continuous twelve-month period.
4 26 d. In determining the amount to be refunded, if the dates
4 27 of the utility billing or meter reading cycle for the sale or
4 28 furnishing of metered gas and electricity is on or after the
4 29 first day of the first month through the last day of the last
4 30 month of the refund year, the full amount of tax charged in
4 31 the billings shall be refunded. In determining the amount to
4 32 be refunded, if the dates of the sale or furnishing of fuel
4 33 for purposes of commercial energy and the delivery of the fuel
4 34 is on or after the first day of the first month through the
4 35 last day of the last month of the refund year, the full amount
5 1 of tax charged in the billings shall be refunded.
5 2 e. To receive refunds during the five-year period, the
5 3 applicant shall file a refund claim within three months after
5 4 the end of each refund year.
5 5 f. The refund in this subsection applies only to state
5 6 sales and use tax paid and does not apply to local option
5 7 sales and services taxes imposed pursuant to chapters 423B and
5 8 423E.
5 9 Sec. 3. Section 427.1, Code 2007, is amended by adding the
5 10 following new subsection:
5 11 NEW SUBSECTION. 35. a. Property, other than land and
5 12 buildings and other improvements, that is utilized by a web
5 13 search portal business as defined in and meeting the
5 14 requirements of section 423.3, subsection 92, including

5 15 computers and equipment that are necessary for the maintenance
5 16 and operation of a web search portal and other property
5 17 whether directly or indirectly connected to the computers,
5 18 including but not limited to cooling systems, cooling towers,
5 19 and other temperature control infrastructure; power
5 20 infrastructure for transformation, distribution, or management
5 21 of electricity, including but not limited to exterior
5 22 dedicated business-owned substations, and power distribution
5 23 systems which are not subject to assessment under chapter
5 24 437A; racking systems, cabling, and trays; and back-up power
5 25 generation systems, battery systems, and related
5 26 infrastructure all of which are necessary for the maintenance
5 27 and operation of the web search portal site.

5 28 b. This exemption applies beginning with the assessment
5 29 year the investment in or construction of the facility
5 30 utilizing the materials, equipment, and systems set forth in
5 31 paragraph "a" are first assessed. For purposes of claiming
5 32 this exemption, the requirements may be met by aggregating the
5 33 various Iowa investments and other requirements of the web
5 34 search portal business's affiliates as allowed under section
5 35 423.3, subsection 92. This exemption applies to affiliates of
6 1 the web search portal business.

6 2 Sec. 4. IMPLEMENTATION. Section 25B.7 does not apply to
6 3 the property tax exemption enacted in this Act.

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PATRICK J. MURPHY
Speaker of the House

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JOHN P. KIBBIE
President of the Senate

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6 15 I hereby certify that this bill originated in the House and
6 16 is known as House File 912, Eighty-second General Assembly.

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MARK BRANDSGARD
Chief Clerk of the House

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6 22 Approved _____, 2007

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6 26 CHESTER J. CULVER
6 27 Governor